

BUREAU OF FINANCIAL INSTITUTIONS
Department of Professional and Financial Regulation
State of Maine

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Bulletin #73-A

Credit Union Owned Life Insurance

Background and Purpose

The Bureau of Financial Institutions has received inquiries from Maine-chartered credit unions regarding their authority and the requirements to purchase life insurance policies insuring the lives of officers and employees for the benefit of the credit union. The purpose of this Bulletin is to outline the Bureau's position regarding the permissibility of investment in life insurance by credit unions, due diligence, and safety and soundness considerations.

Authority

Maine-chartered credit unions are authorized to provide compensation to their officers and employees under Title 9-B M.R.S.A. Section 842(2)(C). Compensation is interpreted to comprise both salary and benefits. There is no specific authority under Title 9-B M.R.S.A. Part 8 for Maine-chartered credit unions to purchase and hold life insurance. However, federal credit unions are permitted to purchase and hold life insurance under federal law and regulation,¹ provided that the investment in life insurance is directly related to the federal credit union's obligation or potential obligation under an employee benefit plan. Therefore, pursuant to Title 9-B M.R.S.A. Section 828 (the federal parity provision), a Maine-chartered credit union may purchase life insurance on the same basis and for the same purposes as permitted for federal credit unions under federal law and regulation.

Limitations

The Bureau has determined that Cash Surrender Value of Life Insurance (CSVLI) is not an extension of credit; therefore, Title 9-B M.R.S.A. Section 854 does not apply to CSVLI. Nonetheless, because of the credit and liquidity risk associated with CSVLI, the Bureau expects credit unions to establish internal limits in a policy adopted by the Board of Directors. The policy shall establish limits on the amount of CSVLI from any one insurance company and the

¹ 12 C.F.R. Section 701.19 of NCUA Regulations and interpretive letters issued thereunder.

aggregate CSVLI of policies from all insurance companies based on net worth as defined under 12 C.F.R Section 702.2 of NCUA Regulations. The rationale for these limitations should be clearly documented, supported, and consistent with safe and sound practices.

Because investment in life insurance has risk characteristics more in common with member business loans than consumer loans, it is strongly recommended that credit unions develop internal limitations using the limitation of 12 C.F.R. Section 723 of NCUA Rules and Regulations for member business loans (15% of net worth) as a general guideline.

Due Diligence

The Bureau of Financial Institutions expects Maine-chartered credit unions to conduct and document a pre-purchase analysis for investments in life insurance as follows:

1. Determine the need for insurance, the economic benefits, and the appropriate insurance type;
2. Quantify the amount of insurance appropriate for the institution's objectives;
3. Assess vendor qualifications;
4. Review the characteristics of available insurance products;
5. Document the selection of a carrier;
6. Determine the reasonableness of compensation provided to the insured employee if the insurance results in additional compensation;
7. Analyze the associated risks and the institution's ability to monitor and respond to those risks;
8. Evaluate alternatives; and,
9. Document the decision.

In the Bureau's experience, the use of life insurance is sometimes flawed because institutions adopted plans that were essentially life insurance policies offered as non-qualified employee benefit plans. The Bureau considers it an essential component of due diligence for a credit union to determine whether a particular executive benefit is necessary and reasonable given the market for comparable executive positions, the amount of existing compensation and benefits, and other relevant factors. If it is determined that a particular benefit is necessary and reasonable, then the credit union should determine how best to fund the employee benefit. Life insurance is just one of several options that can be considered.

Purchases of life insurance must conform to the applicable provisions of the Maine Insurance Code, including Title 24-A M.R.S.A. Section 2404, regarding insurable interest and Title 24-A M.R.S.A. Section 2408, regarding consent of the

insured. Credit unions are urged to contact the Maine Bureau of Insurance with any questions about the applicable provisions of the Maine Insurance Code.

If you have any questions, please contact Chief Bank Examiner Donald W. Groves at 207-624-8577 or donald.w.groves@maine.gov.

A handwritten signature in cursive script, reading "Colette L. Mooney".

Colette L. Mooney
Acting Superintendent

Note: This Bulletin is intended for informational purposes. It is not intended to set forth legal rights, duties, or privileges nor is it intended to provide legal advice. Readers are encouraged to consult applicable statutes and regulations and to contact the Bureau of Financial Institutions if additional information is needed.